

## HOUSE BILL NO. 431

INTRODUCED BY RASER, WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REQUIREMENTS FOR CREATING A RURAL IMPROVEMENT DISTRICT; REQUIRING THAT A RESOLUTION AND NOTICE OF INTENTION TO CREATE A DISTRICT IN WHICH RELATED IMPROVEMENTS COMPOSE A LARGER PROJECT INCLUDE THE FULL SCOPE, INCLUDING COSTS AND IMPACTS, OF THE RELATED OR LARGER PROJECT; REVISING THE REQUIREMENTS FOR A PROTEST OF THE CREATION OR EXTENSION OF A DISTRICT; REVISING WHEN A PROTEST OF THE CREATION OR EXTENSION OF A DISTRICT IS SUFFICIENT TO BAR THE PROCEEDINGS; RESTRICTING THE AUTHORITY OF THE COUNTY COMMISSIONERS TO OVERRULE THE PROTESTS; AND AMENDING SECTIONS 7-12-2103, 7-12-2105, 7-12-2109, AND 7-12-2112, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-12-2103, MCA, is amended to read:

**"7-12-2103. Resolution of intention to create rural improvement district.** (1) Before creating ~~any~~ a special improvement district for the purpose of making any of the improvements or acquiring any private property for any purpose authorized by this part, the board of county commissioners shall pass a resolution of intention ~~to do so~~.

(2) The resolution ~~shall~~ must:

(a) designate the number of ~~such~~ the district;

(b) describe the boundaries ~~thereof~~ of the district;

(c) state ~~therein~~ in the resolution the general character of the improvements ~~which~~ that are to be made;

(d) designate the name of the engineer who is to have charge of the work and an approximate estimate of the cost ~~thereof of the work~~; and

(e) specify the method or methods by which the costs of the improvements will be assessed against property in the district; and

(f) if applicable, provide any additional information required to be included in the notice under 7-12-2105(3)(a).

(3) The board of county commissioners may include, in one proceeding under one resolution of intention

1 and in one contract, any of the different kinds of improvements or work provided for in this part and may include  
2 any number of streets and rights-of-way or portions ~~thereof~~ of streets and rights-of-way, and it may exempt any  
3 of the work already done upon a street to the official grade."  
4

5 **Section 2.** Section 7-12-2105, MCA, is amended to read:

6 **"7-12-2105. Notice of resolution of intention to create district -- hearing.** (1) Upon having passed  
7 the resolution of intention pursuant to 7-12-2103, the board of county commissioners shall publish notice of the  
8 passage of the resolution of intention as provided in 7-1-2121.

9 (2) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation  
10 or the agent of the person, firm, or corporation owning real property within the proposed district listed in the  
11 owner's name upon the last-completed assessment roll for state, county, and school district taxes.

12 (3) (a) The notice must describe the general character of the improvement or improvements proposed  
13 to be made or acquired by purchase, state the estimated cost of the improvements, describe generally the  
14 method or methods by which the costs of the improvements will be assessed, and designate the time when and  
15 the place where the board will hear and pass upon all protests that may be made against the making or  
16 maintenance of the improvements or the creation of the district. If one or more of the improvements proposed  
17 to be made or acquired by purchase are related to each other or are part of a larger project, the notice must  
18 describe the entire scope of the related or larger project, including the estimated costs of all related  
19 improvements, the method or methods by which these costs will be assessed, the impacts on property rights,  
20 and other actual or potential costs reasonably related to the proposed improvement.

21 (b) If the revolving fund is to be pledged to secure the payment of bonds and warrants, the notice must  
22 include a statement that, subject to the limitations in 7-12-2182:

23 (i) the county general fund may be used to provide loans to the revolving fund; or

24 (ii) a general tax levy may be imposed on all taxable property in the county to meet the financial  
25 requirements of the revolving fund.

26 (c) The notice must refer to the resolution on file in the office of the county clerk for the description of  
27 the boundaries. If the proposal is for the purchase of an existing improvement, the notice must state the exact  
28 purchase price of the existing improvement."  
29

30 **Section 3.** Section 7-12-2109, MCA, is amended to read:

1       **"7-12-2109. Right to protest creation or extension of district.** (1) At any time within 30 days after  
2 the date of the first publication of the notice of the passage of the resolution of intention, any owner of property  
3 liable to be assessed for the work proposed in the resolution may make written protest against the proposed  
4 work or against the ~~extending or~~ creation or extension of the district to be assessed, or both. The protest must  
5 be in writing; and identify the property in the district owned by the protestor; ~~and be signed by all owners of the~~  
6 ~~property.~~ The protest must be delivered to the county clerk, who shall endorse on the protest document the date  
7 of its receipt by the county clerk.

8       (2) (a) For purposes of this section, "owner" means, as of the date a protest is filed, the record owner  
9 of fee simple title to the property.

10       (b) The term does not include a tenant of or other holder of a leasehold interest in the property."  
11

12       **Section 4.** Section 7-12-2112, MCA, is amended to read:

13       **"7-12-2112. Sufficient protest to bar proceedings -- exception.** (1) Except as provided in subsection  
14 (2), ~~no~~ further proceedings ~~shall~~ may not be taken for a period of ~~6 months~~ 1 year ~~6 MONTHS~~ from the date when  
15 ~~said a~~ protest was received by the county clerk ~~when if~~ the board of county commissioners finds that ~~such the~~  
16 protest is made by:

17       (a) the owners of property in within the proposed district to be assessed for more having projected  
18 assessments, when aggregated, representing not less than 50% of the cost of the proposed work, in accordance  
19 with the method or methods of assessment described in the resolution of intention total projected assessments  
20 for property within the district;

21       (b) the owners of property within the proposed district having a taxable valuation, when aggregated,  
22 representing not less than 50% of the total taxable valuation of the property within the district; or

23       (c) not less than 50% of the owners of property within the district.

24       ~~—— (2) In case if the improvements are the construction of sanitary sewers, the protests may be overruled~~  
25 ~~by a unanimous vote of the board if:~~

26       ~~—— (a) the improvements are ordered by the department of environmental quality or the federal~~  
27 ~~environmental protection agency; or~~

28       ~~—— (b) there is documentation that the water in the district does not meet the standards provided pursuant~~  
29 ~~to Title 75, chapter 5, parts 1 through 6, or pursuant to Title 75, chapter 6, part 1, and that the improvements will~~  
30 ~~result in the water meeting the standards. THE GOVERNING BODY MAKES WRITTEN FINDINGS AFTER A PUBLIC HEARING~~

1 ~~AND PUBLIC COMMENT, BASED ON EVIDENCE IN THE RECORD, THAT:~~

2 ~~—— (A) THE PROPOSED IMPROVEMENTS PROTECT PUBLIC HEALTH OR THE ENVIRONMENT, MITIGATE HARM TO THE~~  
3 ~~PUBLIC HEALTH OR ENVIRONMENT, AND ARE ACHIEVABLE UNDER CURRENT TECHNOLOGY;~~

4 ~~—— (B) REFERENCE INFORMATION AND PEER-REVIEWED SCIENTIFIC STUDIES THAT FORM THE BASIS FOR THE~~  
5 ~~GOVERNING BODY'S CONCLUSIONS; AND~~

6 ~~—— (C) INCLUDE INFORMATION REGARDING COSTS TO THE REGULATED COMMUNITY THAT ARE DIRECTLY~~  
7 ~~ATTRIBUTABLE TO THE PROPOSED IMPROVEMENTS;~~

8 ~~(2) IF THE IMPROVEMENTS ARE THE CONSTRUCTION OF SANITARY SEWERS, THE PROTESTS MAY BE OVERRULED~~  
9 ~~BY A UNANIMOUS VOTE OF THE BOARD IF:~~

10 ~~(A) THE IMPROVEMENTS ARE ORDERED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR THE FEDERAL~~  
11 ~~ENVIRONMENTAL PROTECTION AGENCY; OR~~

12 ~~(B) THE GOVERNING BODY MAKES WRITTEN FINDINGS AFTER A PUBLIC HEARING AND PUBLIC COMMENT, BASED~~  
13 ~~ON EVIDENCE IN THE RECORD, THAT THE PROPOSED IMPROVEMENTS PROTECT PUBLIC HEALTH OR THE ENVIRONMENT,~~  
14 ~~MITIGATE HARM TO THE PUBLIC HEALTH OR ENVIRONMENT, AND ARE ACHIEVABLE UNDER CURRENT TECHNOLOGY."~~

15 - END -